

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHAEL E. SEXTON,

Plaintiff

v.

FIRETREE, INC. (PENN-CAPP),
et al.,

Defendants

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CIVIL NO. 1:CV-08-0789

(Judge Caldwell)

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This action was commenced on April 28, 2008 by Plaintiff Michael E. Sexton, an inmate confined at the Frackville State Correctional Institution ("SCI-Frackville") in Frackville, Pennsylvania. Sexton did not file a proper complaint. On May 7, 2008, Sexton was directed to file a complaint on the proper forms and was provided with the same. Sexton subsequently filed a document entitled "Complaint" that is not on a standard civil rights complaint form. (Doc. 8.) Nonetheless, after review, the Court dismissed Sexton's claims against the Department of Veteran's Affairs, the Veteran's Administration Hospital, and Firetree, Incorporated pursuant to 28 U.S.C. §1915(e)(2)(B)(ii). (See Doc. 10.) Because his claims against these entities could not be amended to state a claim upon which relief can be granted, dismissal was with prejudice. (See *id.*) While Sexton's claims against the SCI-Frackville medical department also were dismissed for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii), dismissal was without prejudice. (See *id.*) As such, Sexton was given the opportunity to file an amended complaint within twenty (20)

days as to his allegation that the SCI-Frackville medical department refused to provide him with medications. (*See id.*)

On July 9, 2008, Sexton filed two amended complaints. (*See Docs. 13, 14.*) The proposed amended complaints were not copies of each other, but rather two completely different documents. Because the Court had no idea which document Sexton intended to file as his amended complaint in this action, the Clerk of Court returned them to Sexton with the direction that he resubmit one (1) proposed amended complaint as to his allegation that the SCI-Frackville medical department refused to provide him with medications. Presently before the Court is Sexton's most recent attempt to file an amended complaint. (*See Doc. 25.*)

The proposed document consists of a completed standard civil complaint form dated June 19, 2008, and an attached to a "letter-brief" captioned "Re: Amended "Medical Indifference" SCI Frackville (Medical Department)" (*Id.*) Again, the Court is confronted by the same dilemma as before when reviewing Sexton's prior submissions. The text of the two documents asserts different claims and includes allegations against different people. As it is unclear as to what claims Sexton wishes to pursue and against whom he makes such allegations, Sexton will be granted one last opportunity to file an amended complaint.

Based on the foregoing, and in the interests of justice to this pro se litigant, *see Haines v. Kerner*, 404 U.S. 519, 520-21 (1972), Sexton will be granted ten (10) days to submit an amended complaint which satisfies the requirements of this Court's June 17, 2008 Order to submit one (1) proposed amended complaint. The amended complaint shall set forth each claim of alleged deliberate indifference

to his medical needs separately, and name only the defendants in each claim that Plaintiff seeks to hold liable for that claim. The allegations that support each claim shall also be set forth in separate, numbered sentences, rather than in long unbroken paragraphs. Sexton is also advised that the "amended complaint must be complete in all respects. It must be a new pleading which stands by itself as an adequate complaint without reference to the complaint already filed." *Young v. Keohane*, 809 F.Supp. 1185, 1198 (M.D. Pa. 1992). The amended complaint should not consist of a patchwork of documents asserting separate claims in each, but rather one complete document.

**ACCORDINGLY, THIS 2nd DAY OF DECEMBER, 2008, IT IS
HEREBY ORDERED AS FOLLOWS:**

1. The Clerk of Court is directed to strike from the record and return to Plaintiff his filings of November 26, 2008 (Doc. 25).
2. Within ten (10) days from the date of this Order, Plaintiff shall comply with this Court's June 17, 2008 Order by filing one (1) proposed amended complaint as to his allegation that the SCI-Frackville medical department refused to provide him with medications.
3. The Clerk of Court is directed to send Sexton two (2) copies of this court's form civil-rights complaint, which Plaintiff should use in filing his amended complaint.

/s/ A. Richard Caputo
A. RICHARD CAPUTO
United States District Judge